

(x) If the Sector plans to authorize non-Sector vessels to harvest scallops allocated to the Sector, details of such arrangements must be described in the operations plan;

(xi) Any documents and analyses necessary to comply with the National Environmental Protection Act must be submitted to NMFS. The development of the analytical document is the responsibility of the applicants.

(xii) Any other information determined to be necessary and appropriate.

(d) *Sector review, approval, and revocation.* (1) A Sector shall submit its operations plan and any NEPA documents to the Regional Administrator and the Council no less than 1 year prior to the date that it wishes to begin operations under the Sector. The Council shall consider this plan in the course of the periodic framework adjustment or specification process and may, if approved, implement it through either of those processes. After Council approval of a Sector, the details of its operation shall be addressed between the Sector and NMFS, although the New England Fishery Management Council may review and provide comment on the proposed details.

(2) The Regional Administrator may withdraw approval of a Sector at any time if he/she, in consultation with the New England Fishery Management Council, determines that Sector participants are not complying with the requirements of an approved operations plan or that the continuation of the operations plan will undermine achievement of fishing mortality objectives of the FMP. Withdrawal of approval of a Sector shall be completed after notice and comment rulemaking, pursuant to the Administrative Procedure Act.

(3) A Sector is required to resubmit its operations plan to the Regional Administrator no later than July 1 of each year, whether or not the plan has changed. Once the submission documents specified under paragraphs (a)(1) and (c)(2) of this section have been determined to comply with the requirements of this section, NMFS may consult with the Council and shall approve or disapprove Sector operations consistent with applicable law.

[73 FR 20131, Apr. 14, 2008, as amended at 77 FR 20741, Apr. 6, 2012]

§ 648.64 Yellowtail flounder sub-ACLs and AMs for the scallop fishery.

(a) As specified in § 648.55(d), and pursuant to the biennial framework adjustment process specified in § 648.90, the scallop fishery shall be allocated a sub-ACL for the Georges Bank and Southern New England/Mid-Atlantic stocks of yellowtail flounder. Unless otherwise specified in § 648.90(a)(4)(iii)(C) of the NE multispecies regulations, the sub-ACLs for the 2011 through 2013 fishing years are as follows:

(1) *2011.* 82 mt for the Southern New England/Mid-Atlantic stock of yellowtail flounder and 200.8 mt for the Georges Bank stock of yellowtail flounder.

(2) *2012.* 127 mt for the Southern New England/Mid-Atlantic stock of yellowtail flounder and 307.5 mt for the Georges Bank stock of yellowtail flounder.

(3) *2013.* To be determined.

(b) *Georges Bank accountability measure.* (1) Unless otherwise specified in § 648.90(a)(5)(iv) of the NE multispecies regulations, if the Georges Bank yellowtail flounder sub-ACL for the scallop fishery is exceeded, the area defined by the following coordinates shall be closed to scallop fishing by vessels issued a limited access scallop permit for the period of time specified in paragraph (b)(2) of this section:

GEORGES BANK YELLOWTAIL CLOSURE

Point	N. lat.	W. long.
GBYT AM 1	41°50'	66°51.94'
GBYT AM 2	40°30.75'	65°44.96'
GBYT AM 3	40°30'	66°40'
GBYT AM 4	40°40'	66°40'
GBYT AM 5	40°40'	66°50'
GBYT AM 6	40°50'	66°50'
GBYT AM 7	40°50'	67°00'
GBYT AM 8	41°00'	67°00'
GBYT AM 9	41°00'	67°20'
GBYT AM 10	41°10'	67°20'
GBYT AM 11	41°10'	67°40'
GBYT AM 12	41°50'	67°40'
GBYT AM 1	41°50'	66°51.94'

(2) *Duration of closure.* The Georges Bank yellowtail flounder accountability measure closed area shall remain closed for the period of time, not to exceed 1 fishing year, as specified for the corresponding percent overage of the Georges Bank yellowtail flounder sub-ACL, as follows:

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(i) For years when the Closed Area II Sea Scallop Access Area is open, the closure duration shall be:

Percent overage of YTF sub-ACL	Length of closure
3 or less	October through November.
3.1–14	September through November.
14.1–16	September through January.
16.1–39	August through January.
39.1–56	July through January.
Greater than 56	March through February.

(ii) For fishing years when the Closed Area II Sea Scallop Access Area is closed to scallop fishing, the closure duration shall be:

Percent overage of YTF sub-ACL	Length of closure
1.9 or less	September through November.
2.0–2.9	August through January.
3.0–3.9	March and August through February.
4.0–4.9	March and July through February.
5.0–5.9	March through May and July through February.
6.0 or greater	March through February.

(c) *Southern New England/Mid-Atlantic accountability measure.* (1) Unless otherwise specified in § 648.90(a)(5)(iv) of the NE multispecies regulations, if the Southern New England/Mid-Atlantic yellowtail flounder sub-ACL for the scallop fishery is exceeded, the area defined by the following coordinates shall be closed to scallop fishing by vessels issued a limited access scallop permit for the period of time specified in paragraph (c)(2) of this section:

SOUTHERN NEW ENGLAND YELLOWTAIL CLOSURE

Point	N. lat.	W. long.
SNEYT AM 1	41°28.4'	71°10.25'
SNEYT AM 2	41°28.57'	71°10'
SNEYT AM 3	41°20'	71°10'
SNEYT AM 4	41°20'	70°50'
SNEYT AM 5	41°20'	70°30'
SNEYT AM 6	41°18'	70°15'
SNEYT AM 7	41°17.69'	70°12.54'
SNEYT AM 8	41°14.73'	70°00'
SNEYT AM 9	39°50'	70°00'
SNEYT AM 10	39°50'	71°00'
SNEYT AM 11	39°50'	71°40'
SNEYT AM 12	40°00'	71°40'
SNEYT AM 13	40°00'	73°00'
SNEYT AM 14	40°41.23'	73°00'
SNEYT AM 15	41°00'	71°55'
SNEYT AM 16	41°00'	71°40'
SNEYT AM 17	41°20'	71°40'
SNEYT AM 18	41°21.15'	71°40'

(2) *Duration of closure.* The Southern New England/Mid-Atlantic yellowtail flounder accountability measure closed

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area shall remain closed for the period of time, not to exceed 1 fishing year, as specified for the corresponding percent overage of the Southern New England/Mid-Atlantic yellowtail flounder sub-ACL, as follows:

Percent overage of YTF sub-ACL	Length of closure
2 or less	March through April.
2.1–3	March through April, and February.
3.1–7	March through May, and February.
7.1–9	March through May and January through February.
9.1–12	March through May and December through February.
12.1–15	March through June and December through February.
15.1–16	March through June and November through February.
16.1–18	March through July and November through February.
18.1–19	March through August and October through February.
19.1 or more	March through February.

(d) *Exemption for LAGC IFQ vessels.* Vessels issued an LAGC IFQ permit and fishing under the LAGC IFQ scallop fishery shall be exempt from the closure(s) specified in paragraphs (b) and (c) of this section. Yellowtail bycatch by such vessels shall be counted against the applicable yellowtail flounder sub-ACL specified in paragraph (a) of this section.

(e) *Process for implementing the AM.* On or about January 15 of each year, based upon catch and other information available to NMFS, the Regional Administrator shall determine whether a yellowtail flounder sub-ACL was exceeded, or is projected to be exceeded, by scallop vessels prior to the end of the scallop fishing year ending on February 28/29. The determination shall include the amount of the overage or projected amount of the overage, specified as a percentage of the overall sub-ACL for the applicable yellowtail flounder stock, in accordance with the values specified in paragraph (a) of this section. Based on this initial projection in mid-January, the Regional Administrator shall implement the AM in accordance with the APA and notify owners of limited access scallop vessels by letter identifying the length of the closure and a summary of the yellowtail flounder catch, overage, and projection that resulted in the closure. The initial projected estimate shall be updated after the end of each scallop fishing

year once complete fishing year information becomes available. An AM implemented at the start of the fishing year will be reevaluated and adjusted proportionately, if necessary, once updated information is obtained. For example, if in January 2013, the preliminary estimate of 2012 Southern New England/Mid-Atlantic yellowtail flounder catch is estimated to be 5 percent over the 2012 sub-ACL, the Regional Administrator shall implement AMs for the 2013 scallop fishing year in that stock area. Based on the schedule in paragraph (c)(2) of this section, limited access vessels would be prohibited from fishing in the area specified in paragraph (c)(1) of this section for 4 months (i.e., March through May 2013, and February 2014). Continuing the example, after the 2012 fishing year is completed, if the final estimate of Southern New England/Mid-Atlantic yellowtail flounder catch indicates the scallop fishery caught 1.5 percent of the sub-ACL, rather than 5 percent, the Regional Administrator, in accordance with the APA, would adjust the AM for the 2014 fishing year based on the overage schedule in paragraph (c)(2) of this section. As a result, limited access vessels would be subject to a 2-month seasonal closure in March and April 2013. In this example, due to the availability of final fishing year data, it is possible that the original AM closure was already in effect during the month of May. However, the unnecessary AM closure in February 2014 would be avoided. If the Regional Administrator determines that a final estimate is higher than the original projection, the Regional Administrator, if necessary, shall make adjustments to the current fishing year's respective AM closure schedules in accordance with the overage schedule in paragraphs (b)(2)(i), (b)(2)(ii), and (c)(2) of this section.

(f) [Reserved]

[76 FR 43770, July 21, 2011, as amended at 77 FR 20742, Apr. 6, 2012; 77 FR 26122, May 2, 2012]

Subpart E—Management Measures for the Atlantic Surf Clam and Ocean Quahog Fisheries

§ 648.70 Surfclam and ocean quahog Annual Catch Limit (ACL).

(a) The MAFMC staff shall recommend to the MAFMC ACLs for the surfclam and ocean quahog fisheries, which shall be equal to the ABCs recommended by the SSC.

(1) *Sectors.* The surfclam and ocean quahog ACLs will be established consistent with the guidelines contained in the Atlantic Surfclam and Ocean Quahog FMP. The ACL for ocean quahog will then be allocated to the Maine and non-Maine components of the fishery according to the allocation guidelines of the Atlantic Surfclam and Ocean Quahog FMP as specified in § 648.78(b).

(2) *Periodicity.* The surfclam and ocean quahog ACLs may be established on an annual basis for up to 3 years at a time, dependent on whether the SSC provides single or multiple year ABC recommendations.

(b) *Performance review.* The MAFMC staff shall conduct a detailed review of the fishery performance relative to the ACLs at least every 5 years.

(1) If the surfclam or the ocean quahog ACL is exceeded with a frequency greater than 25 percent (i.e., more than once in 4 years or any 2 consecutive years), the MAFMC staff will review fishery performance information and make recommendations to the MAFMC for changes in measures intended to ensure the ACL is not exceeded as frequently.

(2) The MAFMC may specify more frequent or more specific ACL performance review criteria as part of a stock rebuilding plan following a determination that a stock has become overfished.

(3) Performance reviews shall not substitute for annual reviews that occur to ascertain if prior year ACLs have been exceeded, but may be conducted in conjunction with such reviews.

[76 FR 60622, Sept. 29, 2011]